



**NISQUALLY INDIAN TRIBE
TRIBAL EMPLOYMENT RIGHTS ORDINANCE**

COMPLIANCE PLAN

Note: All Contractors/Subcontractors must meet with the TERO office.

Any covered entity not submitting a completed compliance plan will be denied the right to commence business on the Nisqually Indian Reservation. A compliance plan should be submitted at least two (2) weeks prior to starting project. All Contractors are required to submit copy of contract with compliance plan to TERO.

Failure to comply with the TERO Ordinance may result in civil penalties.

Prime Contractor: _____

Subcontractor: _____

Project: _____

Starting Date: _____

Ending Date: _____

Historically, Nisqually Tribal members and other Native Americans have suffered discrimination in employment on and near the Nisqually Reservation. As a result of this discrimination Native Americans were excluded from employment and training opportunities. These lost opportunities created high unemployment rates and poverty. With no job training programs or on-the-job training, Tribal members had little chance for permanent/full time employment. When Native Americans did work they were paid less than their non-Indian counterparts and had little chance for advancement. To eliminate discrimination and ensure that covered employers give preference to qualified Native Americans in all hiring, promotion, training, lay-offs, and all other aspects of employment, the Nisqually Indian Tribe established a Tribal Employment Rights Ordinance (TERO).

Identification of Core Crew

Core crew employees are defined as one who is an owner of the company, or in a top supervisory or lead position and has been on the employer contractor's annual payroll for a minimum period of one year continuously. An employee who has never held a supervisory position within the company is not considered a core crew employee. All claims to possess a "specialized" skill must be submitted with a complete resume of work history and proof of specialized skill (e.g. certificates, licenses, etc.) (See Attachment A, Page 1, and Section 1A).

Name: _____ Position/Classification: _____
Licensed? _____ Hourly Rate: _____ How long with Company? _____

Name: _____ Position/Classification: _____
Licensed? _____ Hourly Rate: _____ How long with Company? _____

Name: _____ Position/Classification: _____
Licensed? _____ Hourly Rate: _____ How long with Company? _____

Identification of Key Personnel

A Key Employee is defined as one who the employer has invested time and costs (for training etc.) this employee to perform critical function such that the employer would risk financial damage or loss if unable to employ on this project (See Attachment A, Page 1, and Section 1B).

Name: _____ Position/Classification: _____
Licensed? _____ Hourly Rate: _____ How long with Company? _____

Name: _____ Position/Classification: _____
Licensed? _____ Hourly Rate: _____ How long with Company? _____

Name: _____ Position/Classification: _____
Licensed? _____ Hourly Rate: _____ How long with Company? _____

☐ Employers may request approval, through a "TERO Waiver", for employees who do not meet these definitions.

☐ All supervisory employees listed, will be required to attend the TERO Pre-Construction Meeting, which will be held prior to the beginning of work on the project identified on this Compliance Plan

Skill/Qualification: _____ Start Date: _____

Number needed: _____ Pay Rate: _____ Special Instruction: _____

Skill/Qualification: _____ Start Date: _____

Number needed: _____ Pay Rate: _____ Special Instruction: _____

Training and Salary

The covered employer agrees to establish or participate in training programs deemed by the TERO Commission as necessary in order to increase the pool of qualified Native Americans on Tribal lands as quickly as possible.

All qualified employees in TERO approved training programs will be evaluated and paid in accordance with a training plan set forth between the contractor and TERO.

Emergency Replacement Workers:

TERO Waivers must be obtained for workers who do not meet definitions of "Core Crew/Key Employees". Employers operating during hours when the TERO office is closed (i.e. weekends, holidays, etc.), and are in need of workers to fill a vacancy will be authorized to place an emergency worker in the vacancy. This emergency placement shall be allowed no longer than seventy-two (72) hours. The TERO will be notified of such hires immediately upon the next working day and the position will be filled pursuant to the standard TERO procedures described in this compliance plan. Emergencies will be determined on a case-by-case basis.

Termination/Lay Offs

(No qualified Native American employee, who can perform the work required, shall be terminated through layoff or reduction in force while a non-Indian employee in the same craft is still employed.)

The TERO Director/Administrator or Compliance Officer has the right to make on-site inspections and conduct compliance investigations at all sites where employment is taking place under the provisions of this compliance agreement plan.

Man Power Request Form

Employer: _____ Contact Person: _____

Phone: _____ Ext. _____ Cell Phone: _____

Address: _____

Job Location: _____

Rate of Pay: _____ per: Hr _____ Wk _____ Month _____ No of Positions: _____

Date needed: _____ TO _____ Time: _____ Job is: FT _____ PT _____ PERM _____ Temp _____

Job will last: 1-5 Days _____ 1-2 Weeks _____ 30-60 Days _____ 60-90 Days + _____ 90-120 days _____ + 150 Days _____

Hours: _____ M-F _____ Wkends _____ Shift _____ License Required? Yes _____ No _____ CDL? A _____ B _____ C _____ D _____

Tools Needed: _____

Working Conditions/ Physical Demands: _____

Skills Training: _____

Special Instruction: _____

Alcohol/Drug Test Required? Yes _____ No _____ Physical Required? Yes _____ No _____

Testing Center/Lab: _____

What is applicant being tested for: _____

Note: The contractor will be required to provide a copy of the drug test results to the TERO Office.

What is the pay schedule: (i.e. M-Sun) and when are timesheets due (day & time)? _____

When are employees expected to be paid? (day & time) _____

What are the arrangements for payday? _____

Will employees be paid for show up time? Yes _____ No _____ If no, explain why _____

For Office Use Only:

Date: _____ Rec'd by: _____

Work Permit Requested by: _____ Work Permit Issued No. _____

Date: issued: _____ Approved by: _____

ATTACHMENT A

DESCRIPTION OF TERO COMPLIANCE REQUIREMENTS

B. **Key Employee** is defined as one who is in a supervisory position or one who possess a "specialized skill" in which the employer who invested time and cost to help that employee reach a level of specialized skill and who performs a critical function, such that an employer would likely risk financial damage or loss if unable to employ. Such claims to have invested in the employee's skill level shall require written proof, including resume of work history, certificates, licenses, etc. A *complete description of duties for each "key employee" listed must be attached to this TERO Compliance Plan.* TERO will review the information submitted and make a determination. Employers who wish to utilize workers that do not meet the definition "key employee" on this project must obtain approval by submitting a "TERO Waiver" (See Attachment C).

C. **Hiring:** Covered employers agree to utilize the TERO Office to fill their manpower request, and must provide a minimum of forty-eight (48) hours notice and a job description on the manpower needs to the TERO office. The TERO staff will attempt to accommodate the employer in the timeliest manner, matching the specified needs with a TERO referral that meets the minimum of qualifications. TERO will certify in writing when a qualified TERO referral is not available.

D. **TERO Dispatching:** All TERO referrals or "Dispatches" will be made from the Tribal Hiring Hall or Skills Bank listings of qualified TERO referrals. The hiring hall lists contain names of unemployed, TERO qualified, Native Americans who have indicated that they are available for work and their skill level. Once a name is taken from the Hiring Hall List, the individual's name will be provided to the employer. If that worker possesses the minimum threshold of qualification, then they are referred for the opportunity. All TERO referrals will report to work with a TERO Dispatch form in hand, unless a copy has been faxed, mailed, or hand-delivered prior to the referral's first day of work. The employer shall contact TERO regarding any worker who reports to the job site without a TERO Dispatch Form in hand. (See Attachment B).

E. **TERO Dispatch Form** provides a space for the employer to give a brief job description which includes company name, address, and phone number, position title/classification, start date, start time, rate of pay, anticipated length of employment, who to see, etc. The TERO referral or "dispatch" shall sign the pay rate offered. All dispatch forms shall require dates and signatures of the employer and a TERO Representative. Unsigned forms will be considered invalid. Employers should review the dispatch form and discuss it with the referral/worker his/her first day of work. Any revisions to the work opportunity, identified on the original dispatch form, regarding position/title, duties, rate of pay, etc. must be reported to TERO prior to any revisions taking place.

or act of violence, the employer shall have the right to dismiss the employee immediately. Failure to provide TERO with a notice of impending termination for other matters may result in a violation of this agreement.

N. Employer Policies: The employer must submit a copy of its employee policies prior to the commencement of work activity for TERO review and approval. In case of any conflict or dispute between company policies and with the TERO requirements, Nisqually Tribal Law will have primacy. An employer may be required to demonstrate that a challenged employment practice is job-related for the position in question and consistent with business necessity.

O. Drug Testing: Employment must be offered prior to requiring a "pre-employment" drug test. The TERO Office must be notified and provided a copy of the employer's pre-employment drug testing policies. Documentation must be provided that all core crew and key employees have complied with the drug testing requirements prior to the commencement of their work activity on this project.

2. WAGE RATES/FRINGE BENEFITS/PAYROLL REPORTS

A. Wages: The prime contractor and their subcontractor(s) must submit a table of wage to be paid. TERO referrals must receive pay equal to the employer's core crew and waived workers performing the same duties/job descriptions. Each worker must receive a paycheck with an explanation of workweek, payroll number, regular and over-time hours, and all deductions taken. The company will pay General Laborer positions according to the approved Project Wage Scale and the pay scale equal to that utilized for permanent/annual employees.

B. Fringe Benefits TERO referrals will receive all fringe benefits in cash, unless the worker is a union member. TERO referrals will not be required to join a union to procure or retain employment.

C. Certified Payroll Reports: All contractors and subcontractors must submit a weekly certified payroll report. Certified payroll reports submitted to the contracting agency will not satisfy this requirement. Payroll reports must contain the name, address, social security number, classification/title, hourly rate, over-time rate, number of regular and over-time hours worked that pay period and deductions for each worker the employer has on the project. Failure to submit certified payroll reports on a weekly/timely basis will constitute grounds for a "violation" and possible sanctions against the employer.

D. Payroll Deductions: No payroll deductions indirectly or directly will be taken from the full wages earned, other than permissible deductions outlined in the United States Federal Labor and Standards Act (FLSA) and this TERO Agreement.

violation will be documented and reported to the employer for immediate resolution. Continuous violation may result in sanctions against the employer, including up to \$500 per day per violation, back pay for lost opportunity and as a last resort, a stop work order.

7. COMPLAINTS:

A. **On-The-Job Contracts:** TERO referrals are advised to make complaints for incidents occurring on the job through the procedures outlined in the employer's policies prior to filing a complaint with TERO. The employer must provide notice to the TERO Office once a complaint is filed and provide information on the action taken to resolve the matter and final disposition of the matter once it is settled.

B. **Discrimination:** If a TERO referred worker feels they have been discriminated against because they are Native American and have been treated unfairly by the employer or the employer representative (e.g. core crew, key personnel) they may file a complaint with the TERO Office. The complaint must be employment related.

C. **Complaint Investigation:** The TERO Office will investigate complaints on-site, by interviewing witnesses, collecting written statements and reviewing supporting evidence. Employees providing statements to the investigator will not be penalized for time taken to give a brief statement or for cooperating with the investigation. The TERO investigator will attempt to minimize the impact of progress on the project.

8. FAILURE TO COMPLETE COMPLIANCE PLAN:

Failure to complete this compliance plan thoroughly and submit prior to the commencement of work on the above described project will be construed as a refusal to comply and may result in a "Notice of Violation." The Nisqually TERO Office will make every effort to work cooperatively with the employer named on this agreement. However, when willful disregard for these requirements are evident, the sanctions afforded will be utilized to the fullest extent of the law.



NISQUALLY TERO DISPATCH FORM

Project: _____

Location: _____

DISPATCH INFORMATION & JOB SUMMARY (TO BE COMPLETED BY EMPLOYER)

Company Name: _____

Address: _____

Phone: _____ Fax: _____ Cell/Shed: _____

Classification/Title of dispatched worker: _____

Hourly Pay Rate: _____ Fringe Benefit Rate: _____

Start Date: _____ Time: _____ AM _____ PM Job Length _____

Supervisor to report to: _____ Title: _____

Brief Job Summary: _____

Tools/Equipment required: _____

Employer will provide the following: _____

Employer Signature: _____ Date: _____

UNDERSTANDING AND ACCEPTANCE (TO BE COMPLETED BY DISPATCHING WORKER)

I have reviewed and understand that I am being dispatched to the above named company for the stated job classification/title, at no less than the hourly rate of stated. I understand that TERO does not issue payroll for the above named company, and questions regarding pay, paydays or any discrepancy of pay related matters, I must first attempt to resolve the matter with my employer. If issues cannot be resolved TERO will intervene upon receipt of written complaint. I further understand that it is my responsibility to carry proper identification with me when I report to work for employer tax purposes, and proof of citizenship. I also understand that it is not TERO'S responsibility to provide my proof of enrollment or any other identification required.

The employer is required to deduct Washington State Taxes unless the following requirements apply to me: 1) I am enrolled member of a federally recognized Indian Tribe; 2) I am working and reside on the Nisqually Reservation 3) I can provide proof of enrollment.

_____ I HEREBY ACCEPT THIS JOB DISPATCH _____ I DECLINE THIS DISPATCH

Dispatch Signature: _____ Date: _____

TERO Official _____ Date: _____



NISQUALLY TERO REFERRAL WAIVER REQUEST FORM

Employer: _____

Project: _____

The Employer requests a TERO Referral waiver from Nisqually Tribal Employment Rights Office for the position of _____

on the above named project. This request is made because:

_____ The TERO Office was unable to locate a TERO Referral qualified to fill the position.

_____ The position is a skill which requires specialized training / certification for which the Employer has invested time and money into the training of the individual to be waived.

Name of individual seeking waiver for: _____

(Attach documentation of specialized skill)

Employer Signature: _____ Date: _____

Approved: _____ Disapproved: _____

TERO Officer signature: _____ Date: _____

(This waiver is in effect for sixty days from TERO Officer Signature date)

KEEP A COPY OF THIS WAIVER ON JOBSITE